

**2021-20821**

**COURT:** 157th

**FILED DATE:** 4/8/2021

**CASE TYPE:** Motor Vehicle Accident



**GAINES, CORTRIE**

Attorney: DESIMONE, DONALD G.

**VS.**

**VIGIL, TIMOTHY**

Attorney: MOYE, WILLIAM RICHARDS

**Docket Sheet Entries**

**Date**

**Comment**



**202120821 - GAINES, CORTRIE vs. VIGIL, TIMOTHY (Court 157)**

Chronological History (non-financial) All

Summary	Appeals	Cost Statements	Transfers	Post Trial Writs	Abstracts	Parties
Court Costs	Judgments/Events	Settings	Services/Notices	Court Registry	Child Support	Images

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Image No.	Type	Title	[Reset Sort]	Post Jdgm	Date	Pages	<a href="#">Add Entire Case</a>
95766002	Filing	Plaintiff's Notice of Filing of Affidavits			05/11/2021	2	<a href="#">Add to Basket</a>
>  95766004	Filing	Affidavit of Cost and Necessity of Services			05/11/2021	8	<a href="#">Add to Basket</a>
>  95766005	Filing	Affidavit of Cost and Necessity of Services			05/11/2021	13	<a href="#">Add to Basket</a>
>  95766006	Filing	Affidavit of Cost and Necessity of Services			05/11/2021	18	<a href="#">Add to Basket</a>
95744818	Filing	Defendant's Answer			05/10/2021	5	<a href="#">Add to Basket</a>
95400361	Filing	Citation Return			04/19/2021	2	<a href="#">Add to Basket</a>
95218115	Filing	PLAINTIFFS ORIGINAL PETITION WITH REQUEST FOR DISCLOSURES			04/08/2021	3	<a href="#">Add to Basket</a>
>  95218116	Filing	REQUEST FOR ISSUANCE OF SERVICE			04/08/2021	1	<a href="#">Add to Basket</a>
>  95218117	Filing	REQUEST FOR ISSUANCE OF SERVICE			04/08/2021	1	<a href="#">Add to Basket</a>



# Marilyn Burgess - Harris County District Clerk

## Request for Issuance of Service

CASE NUMBER: \_\_\_\_\_

CURRENT COURT: \_\_\_\_\_

Name(s) of Documents to be served: PLAINTIFF'S ORIGINAL PETITION WITH REQUEST FOR DISCLOSURES

FILE DATE: 04/08/21

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

Issue Service to: Hittman Transport Services, Inc.

Address of Service: 211 E. 7th Street, Suite 620

City, State & Zip: Austin, Texas 78701-3218

Agent (if applicable): CT Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company

TYPE OF SERVICE/PROCESS TO BE ISSUED: (Check the proper Box)

- |  |  |  |   |
|--|--|--|---|
| <input checked="" type="checkbox"/> Citation                   | <input type="checkbox"/> Citation by Posting           | <input type="checkbox"/> Citation by Publication | <input type="checkbox"/> Citations Rule 106 Service |
| <input type="checkbox"/> Citation Scire Facias                 | Newspaper _____  |  |   |
| <input type="checkbox"/> Temporary Restraining Order           | <input type="checkbox"/> Precept                       | <input type="checkbox"/> Notice                  |   |
| <input type="checkbox"/> Protective Order                      |  |  |   |
| <input type="checkbox"/> Secretary of State Citation (\$12.00) | <input type="checkbox"/> Capias (not an E-Issuance)    | <input type="checkbox"/> Attachment              |   |
| <input type="checkbox"/> Certiorari                            | <input type="checkbox"/> Highway Commission ( \$12.00) |  |   |
| <input type="checkbox"/> Commissioner of Insurance (\$12.00)   | <input type="checkbox"/> Hague Convention (\$16.00)    | <input type="checkbox"/> Garnishment             |   |
| <input type="checkbox"/> Other (Please Describe)               | <input type="checkbox"/>                               | <input type="checkbox"/>                         |   |
| <input type="checkbox"/> _____                                 |  |  |   |
| <input type="checkbox"/>                                       |  |  |   |

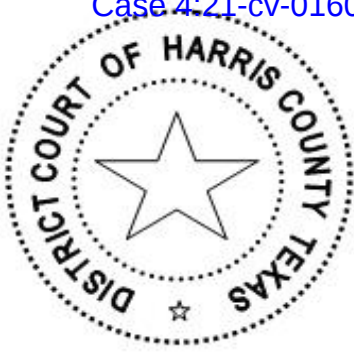
(See additional Forms for Post Judgment Service)

- SERVICE BY (check one):**
- ☐ ATTORNEY PICK-UP (phone) \_\_\_\_\_ ☐ CONSTABLE
- ☐ MAIL to attorney at: \_\_\_\_\_
- ☐ CERTIFIED MAIL by District Clerk ☒ E-Issuance by District Clerk (No Service Copy Fees Charged)
- (Note:) CAPIAS is not an E-Issuance Option
- ☐ CIVIL PROCESS SERVER - Authorized Person to Pick-up: \_\_\_\_\_ Phone: \_\_\_\_\_
- ☐ OTHER , explain \_\_\_\_\_

Issuance of Service Requested By: Attorney/Party Name: Donald G. DeSimone Bar # or ID: 05776710

Mailing Address: 4635 Southwest Freeway, Suite 850, Houston, Texas 77027

Phone Number: (713) 526-0900 ext 2225



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this May 12, 2021

Certified Document Number: 95218117 Total Pages: 1

Marilyn Burgess, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

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# Marilyn Burgess - Harris County District Clerk

## Request for Issuance of Service

CASE NUMBER: \_\_\_\_\_

CURRENT COURT: \_\_\_\_\_

Name(s) of Documents to be served: PLAINTIFF'S ORIGINAL PETITION WITH REQUEST FOR DISCLOSURES

FILE DATE: 04/08/21

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

Issue Service to: Timothy Vigil

Address of Service: 2320 E. Street SW

City, State & Zip: Miami, OK 74354 (or wherever he may be found)

Agent (if applicable): \_\_\_\_\_

TYPE OF SERVICE/PROCESS TO BE ISSUED: (Check the proper Box)

<input checked="" type="checkbox"/> Citation	<input type="checkbox"/> Citation by Posting	<input type="checkbox"/> Citation by Publication	<input type="checkbox"/> Citations Rule 106 Service
<input type="checkbox"/> Citation Scire Facias	<input type="checkbox"/> Newspaper _____		
<input type="checkbox"/> Temporary Restraining Order	<input type="checkbox"/> Precept	<input type="checkbox"/> Notice	
<input type="checkbox"/> Protective Order			
<input type="checkbox"/> Secretary of State Citation (\$12.00)	<input type="checkbox"/> Capias (not an E-Issuance)	<input type="checkbox"/> Attachment	
<input type="checkbox"/> Certiorari	<input type="checkbox"/> Highway Commission ( \$12.00)		
<input type="checkbox"/> Commissioner of Insurance (\$12.00)	<input type="checkbox"/> Hague Convention (\$16.00)	<input type="checkbox"/> Garnishment	
<input type="checkbox"/> Other (Please Describe)	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> _____			
<input type="checkbox"/>			

(See additional Forms for Post Judgment Service)

**SERVICE BY (check one):**

☐ ATTORNEY PICK-UP (phone) \_\_\_\_\_ ☐ CONSTABLE

☐ MAIL to attorney at: \_\_\_\_\_

☐ CERTIFIED MAIL by District Clerk ☒ E-Issuance by District Clerk (No Service Copy Fees Charged)

(Note:) CAPIAS is not an E-Issuance Option

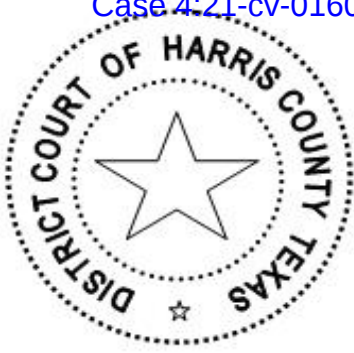
☐ CIVIL PROCESS SERVER - Authorized Person to Pick-up: \_\_\_\_\_ Phone: \_\_\_\_\_

☐ OTHER , explain \_\_\_\_\_

Issuance of Service Requested By: Attorney/Party Name: Donald G. DeSimone Bar # or ID: 05776710

Mailing Address: 4635 Southwest Freeway, Suite 850, Houston, Texas 77027

Phone Number: (713) 526-0900 ext 2225



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this May 12, 2021

Certified Document Number: 95218116 Total Pages: 1

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HARRIS COUNTY, TEXAS

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Cause No. \_\_\_\_\_

Cortrie Gaines	§	IN THE DISTRICT COURT OF
	§	
-VS-	§	HARRIS COUNTY, TEXAS
	§	
Timothy Vigil and	§	
Hittman Transport Services, Inc.	§	_____ JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION WITH REQUEST FOR DISCLOSURES****TO THE HONORABLE JUDGE OF SAID COURT:**

Cortrie Gaines files this Plaintiff's Original Petition with Request for Disclosures complaining of Defendants, Timothy Vigil and Hittman Transport Services, Inc. and respectfully shows as follows:

**I.**  
**DISCOVERY PLAN LEVEL 2**

Plaintiff requests that this lawsuit be governed by Discovery Plan Level 2 pursuant to Rule 190.2 of the Texas Rules of Civil Procedure.

**II.**  
**CLAIMS FOR RELIEF**

Pursuant to Rule 47 C in the Texas Rules of Civil Procedure, this lawsuit is for monetary relief less than \$250,000.

**III.**  
**PARTIES**

Plaintiff is an individual and resident of Harris County, Texas.

Defendant Timothy Vigil is an individual resident of Ottawa County, Oklahoma. He may be served with citation at his usual place of residence at 2320 E. Street SW, Miami, OK 74354 or wherever he may be found.

Defendant Hittman Transport Services, Inc., is a corporation doing business in Monroe, Ouachita Parish County, Louisiana. This Defendant may be served with due process herein by serving its registered agent for service, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, 211 E. 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701-3218.

**IV.**  
**JURISDICTION OF VENUE**

This court has jurisdiction over this case and the damages sought are within the jurisdictional limits of this court. Venue is proper in Harris County, Texas, because Defendant does business in the State of Texas at the time the accident made the basis of this lawsuit occurred in Harris County at the time the cause of action accrued.

**V.**  
**FACTUAL BACKGROUND**

This is a suit for negligence. On or about August 22, 2020, Plaintiff, Cortrie Gaines was driving a 2019 Lincoln Continental at I-20 in Ouachita Parish County, Texas. Defendant Timothy Vigil was driving a 2021 Kenworth TT (owned by Hittman Transport Services, Inc.) was also traveling south at I-20 and made an unsafe lane change, causing the collision. As a result of the collision, Plaintiff sustained serious personal bodily injuries.

**VI.**  
**CAUSES OF ACTION**

Defendant Hittman Transport Services, Inc.. is liable for the actions of its employee, Timothy Vigil, who was acting in the course and scope of his employment in furtherance of the business interests of Hittman Transport Services, Inc. On the occasion in question, Mr. Vigil, operated a commercial vehicle in a negligent manner, in that he violated the duty which he owed the Plaintiff to exercise ordinary care in the operation of the motor vehicle in one or more of the following particulars:

1. In failing to keep proper lookout;
2. In making an unsafe lane change, disregarding other vehicles;
3. Driver inattention.
3. Failing to timely apply the brakes to avoid collision with Plaintiff.
4. In any combination of two or more of the above.

**VII**  
**DAMAGES**

Because of his bodily injuries proximately caused by Defendants' negligence, Plaintiff is entitled to reasonable and proper compensation for the following legal damages:

- a. past and future medical expenses;
- b. past and future physical pain; and
- c. past and future pain and suffering;

**VIII**  
**REQUEST FOR DISCLOSURES**

Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendants are requested to disclose the information and material described in Rule 194.2 within fifty (50) days of the service of this Plaintiff's Request for Disclosure to Defendants. In addition, under Rule 190.2(b)(6), Defendants are requested to produce all documents, electronic information and tangible items that the Defendants has in their possession, custody or control and may use to support its claims or defenses.

**IX.**  
**PRAYER**

Plaintiff prays that he has judgment against Defendants, jointly and severally for actual damages shown and proven at a trial, for prejudgment and post judgment interest, for cost of court and for all other relief, legal and equitable, to which he is entitled.

Respectfully submitted,

DeSimone Law Office

By: /s/ Donald G. DeSimone

Donald G. DeSimone

SBN: 05776710

4635 Southwest Freeway

Suite 850

Houston, Texas 77027

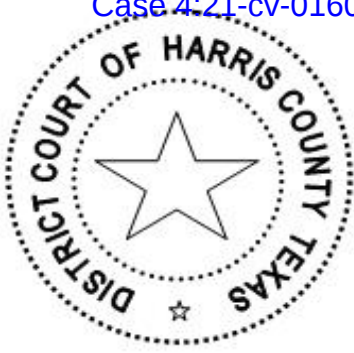
Email: ddesimone@desimonelawoffice.com

Phone# (713) 526-0900

Fax# (713) 526-8041

**Attorney for Plaintiff**





I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this May 12, 2021

Certified Document Number: 95218115 Total Pages: 3

Marilyn Burgess, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

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CAUSE NO. 202120821

COPY OF PLEADING PROVIDED BY PLT

RECEIPT NO: 893397 TRACKING NO: 73860446 EML

Plaintiff:  
GAINES, CORTRIE  
vs.  
Defendant:  
VIGIL, TIMOTHY

In The 157th  
Judicial District Court of  
Harris County, Texas  
201 CAROLINE  
Houston, Texas

## CITATION CORPORATE

THE STATE OF TEXAS  
County of Harris

To: **HITTMAN TRANSPORT SERVICES INC (A CORPORATION DOING BUSINESS IN LOUISIANA) MAY BE SERVED BY SERVING ITS REGISTERED AGENT CORPORATION SERVICE COMPANY DBA CSC-LAWYERS INCORPORATING SERVICE COMPANY**  
**211 E 7TH STREET SUITE 620, AUSTIN TX 78701-3218**

Attached is a copy of: PLAINTIFF'S ORIGINAL PETITION WITH REQUEST FOR DISCLOSURES

This instrument was filed on April 8, 2021 in the above cited cause number and court. The instrument attached describes the claim against you.

**YOU HAVE BEEN SUED.** You may employ an attorney. If you or your Attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration date of 20 days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.

This citation was issued on April 14, 2021, under my hand and seal of said court.

Issued at the request of:

DeSimone, Donald G.  
4635 SOUTHWEST FREEWAY, SUITE 850  
HOUSTON, TX 77027  
713-526-0900 x2223  
Bar Number: 05776710



**AFFIDAVIT  
ATTACHED**

*Marilyn Burgess*

Marilyn Burgess, District Clerk

Harris County, Texas  
201 CAROLINE Houston Texas 77002  
(PO Box 4651, Houston, Texas 77210)

Generated By: MONICA JACKSON

**AFFIDAVIT OF SERVICE**

State of Texas

County of Harris

157th Judicial District Court

Case Number: 202120821

Plaintiff:

**Cortrie Gaines**

vs.

Defendant:

**Timothy Vigil and Hittman Transport Services, Inc.**

For:

Donald DeSimone

4635 Southwest Freeway

Suite 850

Houston, TX 77027

Received by CDI Investigations, LLC on the 14th day of April, 2021 at 4:15 pm to be served on **Hittman Transport Services Inc., 211 E 7th Street, Suite 620, Austin, TX 78701.**

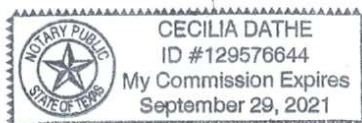
I, Chris Dathe, being duly sworn, depose and say that on the **15th day of April, 2021 at 11:30 am, I:**

served a **CORPORATION** by delivering a true copy of the **Citation and Plaintiff's Original Petition with Request for Disclosures** with the date of service endorsed thereon by me, to: **Samantha Guerra as Intake Agent for Corporation Service Company** who is the Registered Agent for **Hittman Transport Services Inc.**, at the address of: **211 E 7th Street, Suite 620, Austin, TX 78701**, and informed said person of the contents therein, in compliance with state statutes.

I certify that I am over the age of 18, have no interest in the above action, and am a Certified Process Server, in good standing, in the judicial circuit in which the process was served.

Subscribed and Sworn to before me on the 19th  
day of April, 2021 by the affiant  
who is personally known to me.

Cecilia Dathe  
NOTARY PUBLIC

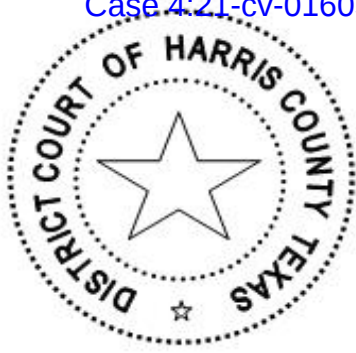


A handwritten signature in blue ink, appearing to read "Chris Dathe".

**Chris Dathe**  
PSC 6008, Exp. 12-31-22

**CDI Investigations, LLC**  
**22503 Katy Freeway**  
**Suite 59**  
**Katy, TX 77450**  
**(713) 201-7045**

Our Job Serial Number: MCI-2021000562



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this May 12, 2021

Certified Document Number: 95400361 Total Pages: 2

Marilyn Burgess, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

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**CAUSE NO. 2021-20821**

<b>CORTRIE GAINES,</b>	§	<b>IN THE DISTRICT COURT</b>
	§	
<b><i>Plaintiff,</i></b>	§	
	§	
<b>V.</b>	§	<b>157TH JUDICIAL DISTRICT</b>
	§	
<b>TIMOTHY VIGIL AND HITTMAN TRANSPORT SERVICES, INC.</b>	§	
	§	
	§	<b>HARRIS COUNTY, TEXAS</b>
<b><i>Defendants.</i></b>	§	

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**DEFENDANTS TIMOTHY VIGIL AND HITTMAN TRANSPORT SERVICES, INC.'S  
ORIGINAL ANSWER AND JURY DEMAND**

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TO THE HONORABLE JUDGE:

COMES NOW, TIMOTHY VIGIL and HITTMAN TRANSPORT SERVICES, INC.'s ("Defendants"), Defendants in the above-styled and numbered cause, and file this Original Answer and Jury Demand, and would respectfully show unto this Honorable Court as follows:

**I. GENERAL DENIAL**

1.1 Defendants invoke the provisions of Texas Rule of Civil Procedure 92, and hereby exercise their legal rights to require Plaintiff to prove all of the allegations contained in his pleadings, if Plaintiff can so prove them, which is denied. Accordingly, Defendants deny generally the allegations of Plaintiff's pleadings and demands strict proof thereof by a preponderance of the evidence.

**II. AFFIRMATIVE DEFENSES**

2.1 Defendants assert that no act or omission on its part was a cause-in-fact, proximate cause, or producing cause of the occurrence in question or the damages alleged by Plaintiff.

2.2 Defendants specifically deny that they have breached any duty of care owed to Plaintiff and acted reasonably prudent at all times under the same or similar circumstances.

2.3 Defendants assert that the damages made the basis of this lawsuit was caused, in whole or in part, by the acts, omissions, fault, negligence, responsibility and/or other conduct on the part of Plaintiff, and said negligence was the cause-in-fact, proximate cause, or sole proximate cause of the alleged damages.

2.4 Defendants assert that the negligence or other conduct of Plaintiff was the sole proximate cause or proximate cause of the matters about which Plaintiff complains of in his petition. Defendants hereby assert the defense of contributory negligence, comparative fault, and proportionate responsibility as to the causes of action pleaded by Plaintiff.

2.5 Defendants would assert that the accident and/or incident in question was proximately caused by a new and independent, intervening, or superseding cause over which Defendant exercised no control and/or that the accident and/or incident in question and any injuries and/or damages asserted in this case, were the result of an unavoidable incident and/or accident.

2.6 Defendants further assert that in the unlikely event Defendants are found liable to Plaintiff, Defendants expressly deny such liability and contend that Defendants are entitled to indemnity and all credits, offsets or contributions provided by the laws and the statutes of the State of Texas, including but not limited to, the provisions of Chapter 32 and Chapter 33 of the Texas Civil Practice and Remedies Code, as well as all other applicable laws and statutes.



2.7 Defendants assert that Plaintiff's claims for damages are barred, under section 33.001 of the Texas Civil Practice and Remedies Code, in the event the percentage of Plaintiff's responsibility is greater than fifty percent (50%), regardless of the theory of recovery pled.

2.8 Defendants assert, in addition to any other limitation under law, that Plaintiff's recovery of any medical or healthcare expenses is limited to the amount actually paid or incurred by or on behalf of Plaintiff pursuant to section 41.0105 of the Texas Civil Practice and Remedies Code.

2.9 Defendants assert that the recovery of any loss of earnings, loss of earning capacity, and loss of contributions of a pecuniary value by Plaintiff is limited to the net loss after reduction for income tax payments or unpaid tax liability pursuant to section 18.091 of the Texas Civil Practice and Remedies Code.

2.10 Defendants would show that the Plaintiff has failed to mitigate damages as required under applicable law.

### **III. Jury Demand**

3.1 Defendants respectfully demand a trial by jury pursuant to the provisions of Rule 216 of the Texas Rules of Civil Procedure.

### **IV. Right to Amend**

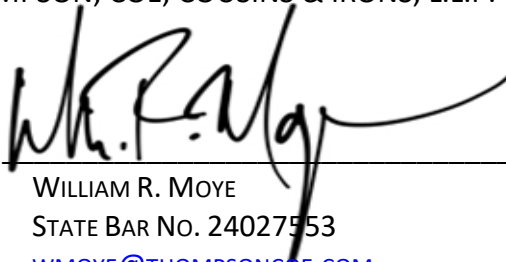
4.1 Defendants respectfully reserves the right to amend thier Original Answer after it has had the opportunity to more closely investigate these claims, as is Defendant's rights and privileges under the Texas Rules of Civil Procedure and the laws of the State of Texas.

**V. PRAYER**

5.1 Defendants pray that Plaintiff takes nothing by this suit, that Defendants have judgment for their costs in this proceeding, and that the Court grant Defendants all such other relief, both general or special, in law or in equity, to which they may show to be justly entitled.

Respectfully submitted,

THOMPSON, COE, COUSINS & IRONS, L.L.P.

By:  \_\_\_\_\_

WILLIAM R. MOYE

STATE BAR No. 24027553

[WMOYE@THOMPSONCOE.COM](mailto:WMOYE@THOMPSONCOE.COM)

ZACHARY Z. ROBICHAUX

STATE BAR No. 24103302

[ZROBICHAUX@THOMPSONCOE.COM](mailto:ZROBICHAUX@THOMPSONCOE.COM)

ONE RIVERWAY, SUITE 1400

HOUSTON, TEXAS 77056

(713) 403-8210; FAX: (713) 403-8299

E-serve: [wmoye.service@thompsoncoe.com](mailto:wmoye.service@thompsoncoe.com)

**ATTORNEYS FOR DEFENDANTS**

**TIMOTHY VIGIL and HITTMAN TRANSPORT  
SERVICES, INC.**

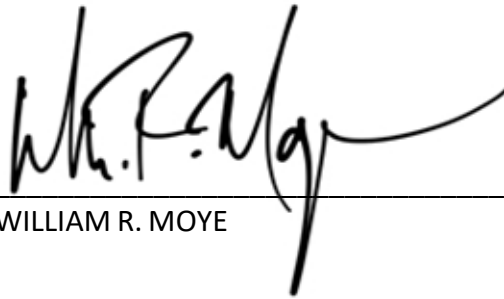


**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing document has been sent to all known counsel of record pursuant to the Texas Rules of Civil Procedure on the 10th day of May, 2021.

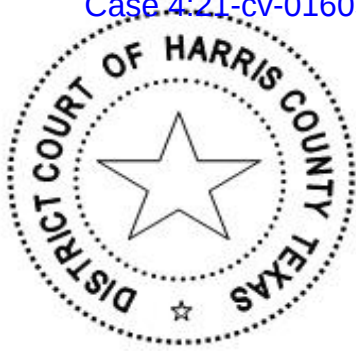
**Via E-File**

DeSimone Law Office  
Donald G. DeSimone  
4635 Southwest Freeway  
Houston, Texas 77027  
(713) 526-0900 phone  
(713) 526-8041 fax  
***Attorney for Plaintiff***



---

WILLIAM R. MOYE



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this May 12, 2021

Certified Document Number: 95744818 Total Pages: 5

Marilyn Burgess, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

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